

Chapter 2. Rules of Practice and Procedure

Article 1. Commission Meetings *[no changes]*

Article 2. All Commission Proceedings

Article 3. Rulemaking and Informational Hearings *[no changes]*

Article 4. Complaints and Investigations

§ 1230. Scope.

(a) Complaint proceedings shall include any adjudicatory proceeding in which the commission determines whether to sanction, or take other appropriate action against, a person for an alleged violation of any statute, order, decision, or regulation adopted, administered, or enforced by the commission, including but not limited to a proceeding pursuant to Public Resources Code section 25534.1. Investigation proceedings shall include any adjudicatory proceeding in which the commission determines the applicability of any statute, order, decision, or regulation adopted, administered, or enforced by the commission. A single proceeding may involve both a complaint and an investigation.

(b) Standing committees to exercise the complaint or investigatory functions of the commission may be established pursuant to Section 1204(a). The order establishing a committee shall designate the area of commission jurisdiction over which a committee shall exercise the complaint or investigatory function.

NOTE: Authority cited: Sections 25213, 25218(e), and ~~25539~~, Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, ~~(a), 25362(b), 25451, 25452, 25500, 25534, 25534.1, 25900, 25967, and 25983~~, Public Resources Code.

§ 1231. Complaints and Requests for Investigation; Filing.

Any person, including but not limited to, the commission staff or the owner or operator of a power plant or transmission line, may file a complaint alleging a violation of a statute, regulation, order, program, or decision adopted, administered, or enforced by the commission. Any complaints alleging

noncompliance with a commission decision adopted pursuant to Public Resources Code section 25500 ~~and following~~ et seq. must be filed solely in accordance with section 1237. Any person may also file a request for investigation, including a request for a jurisdictional determination regarding a proposed or existing site and related facilities.

(a) A complaint or request for investigation shall be filed with the ~~General~~ Chief Counsel of the commission.

(b) The complaint or request for investigation shall include:

(1) the name, address, and telephone number of the person filing the complaint (complainant) or request for investigation (petitioner);

(2) the name, address, and telephone number of the person allegedly violating the statute, regulation, order, or decision (respondent) or, in the case of a request for a jurisdictional investigation, the name, address, and telephone number of the person owning or operating, or proposing to own or operate, the project which is the subject of the request for investigation (respondent);

(3) a statement of the facts upon which the complaint or request for investigation is based;

(4) a statement indicating the statute, regulation, order, or decision upon which the complaint or request for investigation is based;

(5) the action the complainant or petitioner desires the commission to take;

(6) the authority under which the commission may take the action requested; ~~and~~

(7) a statement by the complainant or petitioner specifically listing the names and addresses of any other individuals, organizations, and businesses which the complainant or petitioner knows or has reason to believe would be affected by the relief sought; and

(8) a declaration under penalty of perjury by the complainant or petitioner attesting to the truth and accuracy of any factual allegations contained in the complaint or request for investigation. If any of the applicants are corporations or business associations, the declaration shall be dated, signed, and attested to by an officer thereof. Where a declaration is filed on behalf of a joint venture or proposed joint venture, all members of the joint venture or proposed joint venture shall date, sign, and attest to the declaration.

NOTE: Authority cited: Sections 25213, 25218(e) and 25539, Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362(a), 25362(b), 25500, 25534, 25900, 25967 and 25983, Public Resources Code.

§ 1232. ~~Hearing and Notice Procedures.~~ Complaints and Requests for Investigation; Commission Response.

(a) Within 30 days after the receipt by the ~~General~~Chief Counsel of a complaint or request for investigation, the committee, or if none has been assigned, the chairman, shall:

(1) dismiss the matter upon a determination of insufficiency or lack of merit of the pleadings, specifying whether the dismissal is with or without prejudice; or

(2) serve the complaint or request for investigation by certified mail, return receipt requested, upon the respondent, and all other persons identified in Section 1231(b)(7) shall be served by first class mail.~~and schedule a hearing upon the complaint or request for investigation. In addition, the committee, or if none has been assigned, the chairman, may take additional steps to notify other individuals, organizations, and businesses which the committee or the chairman has reason to believe would be adversely affected by a decision. The hearing shall be scheduled to commence within 90 days after the receipt by the General Counsel of the complaint or request for investigation. The hearing may be scheduled before the full commission, the committee, or a hearing officer assigned by the chairman at the request of the committee as provided in Section 1205. When serving the complaint, the committee, or if none has been assigned, the chairman, shall also provide a copy of the commission's governing procedure, including a statement whether the provisions of Government Code section 11400 et seq. are applicable to the proceeding.~~

(b) The committee, or if none has been assigned, the chairman, may at any time during the proceeding, establish requirements for electronic filing of documents, and may shorten or lengthen the time requirements specified in this Article.

~~(b) Notice, by certified mail, return receipt requested, of complaint or investigatory proceedings shall be given to all petitioners, respondents and persons identified in Section 1231(b)(7) no fewer than 21 days before the first hearing on the matter. In addition, the committee, or if none has been assigned the chairman, may take additional steps to notify other individuals, organizations, and businesses which the committee or the chairman has reason to believe would be adversely affected by a decision.~~

~~(c) The notice shall contain:~~

~~(1) the names and addresses of all named complainants, petitioners, and respondents;~~

~~(2) a statement concerning the nature of the complaint or request for investigation, with an identification of the statute, regulation, order, or decision at issue;~~

~~(3) an explanation of the action the commission may take;~~

~~(4) the date, place, and time of any hearing in the matter; and~~

~~(5) a statement concerning the availability of the public adviser.~~

NOTE: Authority cited: Sections 25213, 25218(e) and ~~25539~~, Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, ~~(a), 25362(b), 25500, 25534, 25900, 25967 and 25983~~, Public Resources Code.

§ 1233. Answers to Complaints and Requests for Investigation.

(a) The respondent shall file and serve an answer with the complainant or petitioner, the commission, and all persons identified in Sections 1231(b)(7) ~~or and 1232(b)(2)~~ within 30~~21~~ days after service of the complaint or request for investigation pursuant to Section 1232(a)(2).

(b) The answer shall include:

(1) an admission or denial of each material allegation;

(2) an explanation of any defenses raised by the respondent; and

(3) a declaration as provided in Section 1231(b)(8).

(c) Where the petitioner seeks clarification of the jurisdictional status of its own project, no answer shall be required.

NOTE: Authority cited: Sections 25213, 25218(e) and ~~25539~~, Public Resources Code. Reference: Section 11180, Government Code; and Sections 25210, 25321, 25362, ~~(a), 25362(b), 25451, 25452, 25500, 25534, 25900, 25967 and 25983~~, Public Resources Code.

§ 1233.5. Staff Assessment.

If the entity filing the complaint or request for investigation is other than the commission staff, the committee, or if none has been assigned, the chairman, may direct commission staff to prepare a written assessment of the complaint or request for investigation and the answer. The staff assessment shall be filed and served by first class mail on complainant or petitioner, the commission, and all persons identified in Sections 1231(b)(7) and 1232(a)(2) within 7 days of service of the answer provided pursuant to Section 1233.

NOTE: Authority cited: Sections 25213, 25218(e), Public Resources Code. Reference: Section 11180, Government Code; Sections 25210, 25321, 25362, 25967, 25983, Public Resources Code.

§ 1234. Notice and Hearing.

(a) The hearing shall be scheduled to commence no sooner than 21 days after receipt of the answer and no later than 90 days after the receipt by the General Counsel of the complaint or request for investigation. The hearing may be scheduled before the full commission, a committee designated by the commission, or a hearing officer assigned by the chairman at the request of the committee as provided in Section 1205.

(b) The commission shall provide written notice by first class mail to all petitioners, respondents and persons identified in Sections 1231(b)(7) and 1232(a)(2) no fewer than 14 days before the first hearing on the matter. The notice shall contain:

(1) the names and addresses of all named complainants, petitioners, and respondents;

(2) a statement concerning the nature of the complaint or request for investigation, with an identification of the statute, regulation, order, or decision at issue;

(3) an explanation of the action the commission may take;

(4) the date, place, and time of any hearing in the matter; and

(5) a statement concerning the availability of the public adviser.

NOTE: Authority cited: Sections 25213, 25218(e), Public Resources Code. Reference: Section 11180, Government Code; Sections 25210, 25321, 25362, 25967, 25983, Public Resources Code.

§ 12345. Proposed Decision.

~~(a) If the matter is heard before an assigned committee or hearing officer, appointed pursuant to Section 1205, the committee or hearing officer shall make its recommendation to the full commission in the form of a written proposed decision within 21 days following the close of hearings held pursuant to Section 1234.~~

~~(b) To the extent reasonably possible, the proposed decision shall be made available within 14 days following the close of hearings held pursuant to Section 1232.~~

~~(c) The proposed decision shall contain an explanation and analysis of the facts and issues involved in the case, and recommendations for disposition by the full commission. The committee or hearing officer shall serve a copy of the proposed decision upon all parties to the hearings on the matter and shall schedule the matter for consideration by the full commission at the earliest reasonable date, but in no event sooner than 10 days after service of the proposed decision.~~

NOTE: Authority cited: Sections 25213, 25218(e), Public Resources Code.
Reference: Section 11180, Government Code, Sections 25210, 25321, 25362, 25967 and 25983, Public Resources Code.

~~§ 1235. Public Participation and Intervention.~~

~~To the extent deemed relevant by the presiding member, any person may testify or comment during a complaint or investigatory hearing. A person may become a formal party by intervening pursuant to Section 1207.~~

~~Note: Authority cited: Section 25213, Public Resources Code. Reference: Section 25214, Public Resources Code.~~

§ 1236. Commission Decision.

(a) Upon consideration of a proposed decision from a committee or hearing officer, the commission shall, to the extent reasonably possible, prepare a decision within 21 days of the filing of the proposed decision that:

(1) adopts, modify, or reject the proposed decision; or

(2) remands the matter to the committee or hearing officer for further hearings; or

(3) reopens the evidentiary record and itself conduct further hearings.

(b) When considering a proposed decision from a committee or hearing officer, the commission may limit presentations by all participants to written and oral submissions based upon the existing evidentiary record.

(c) In cases where the commission, rather than a committee or hearing officer hears the case, to the extent reasonably possible, the commission shall make a decision within 21 days following the close of hearings.

NOTE: Authority cited: Sections 25213, 25218(e), Public Resources Code.
Reference: Section 11180, Government Code, Sections 25210, 25321, 25362, 25967 and 25983, Public Resources Code.

§ 1236.5. Public Participation and Intervention.

To the extent deemed relevant by the presiding member, any person may testify or comment during a complaint or investigatory hearing. A person may request to become a formal party by intervening by following the procedures identified in Section 1207.

NOTE: Authority cited: Sections 25213, 25218(e), Public Resources Code.
Reference: Section 11180, Government Code, Sections 25210, 25321, 25362, 25967 and 25983, Public Resources Code.